

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 20-0220V

UNPUBLISHED

ADAM MACKAY,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 23, 2021

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Influenza (Flu) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for Petitioner.*

*Mollie Danielle Gorney, U.S. Department of Justice, Washington, DC, for Respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On February 27, 2020, Adam MacKay filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that he suffered a left shoulder injury related to vaccine administration after an influenza (“flu”) vaccine on December 7, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 16, 2021, Respondent filed his Rule 4(c) report in which he contested Petitioner’s entitlement to compensation. On November 4, 2021, Petitioner filed additional medical records relating to his injury. ECF No. 25. On November 23, 2021, Respondent filed an Amended Rule 4(c) Report in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Amended Rule 4(c) Report at 1. Specifically,

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<sup>1</sup> Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Respondent states that “Petitioner had no history of pain, inflammation, or dysfunction of his left shoulder; pain occurred within 48 hours after receipt of an intramuscular vaccination; pain was limited to the shoulder in which the vaccine was administered; and no other condition or abnormality has been identified to explain Petitioner’s shoulder pain.” *Id.* at 9. Respondent further agrees that the scope of damages to be awarded is limited to Petitioner’s SIRVA and its related sequelae only. *Id.* at 10.

**In view of Respondent’s position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master